

Applicant : Rapport, et al.  
Serial No. : 10/804,452  
Filed : March 19, 2004  
Page : 15 of 17

Attorney's Docket No.: 21260-021001 / 254-094-PCT-2-C1

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**ELECTION and REMARKS**

Claims 1-50 are pending in this application. In the Office action mailed August 30, 2006, the Examiner required restriction under 35 U.S.C. § 121.

***Election***

The restriction requirement alleges that the application contains three patentably distinct inventions, identifiable as:

- Group I:** claims 1-12, 43-46 drawn to a high density circuit mode, classified in class 361, subclass 776;
- Group II:** claims 13-31 drawn to a memory system, classified in class 361, subclass 720;
- Group III:** claims 32-42 47-50, drawn to a stack integrated circuit, classified in class 361, subclass 728.

Applicants provisionally elect with traverse claims 13-31 drawn to the "Group II" alleged by the Examiner. Thus, pursuant to Applicants' election with traverse in response to the Examiner's restriction requirement, claims 1-12, 43-46, 32-42, and 47-50 are presently withdrawn from consideration as indicated above and in the **Complete Listing of Claims** section of this paper. Applicants reserve their right to prosecute the withdrawn claims by filing one or more divisional or continuation applications as provided by 35 U.S.C. § 121 and MPEP § 804.01 and as otherwise provided.

***Bases of Traverse and Request for Reconsideration***

For the reasons below, Applicants respectfully traverse the Examiner's requirement for restriction between Group I and Group II and respectfully request reconsideration of the restriction requirement between those groups.

The analysis of a restriction requirement between Group I and Group II is governed by MPEP § 805.05(c) Part I, which provides:

Where a combination as claimed requires the details of a subcombination as separately claimed, there is usually no evidence

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Filed : March 19, 2004  
Page : 16 of 17

Attorney's Docket No.: 21260-021001 / 254-094-PCT-2-C1

that combination AB<sub>sp</sub> is patentable without the details of B<sub>sp</sub>. The inventions are not distinct and *a requirement for restriction must not be made or maintained, even if the subcombination has separate utility*. This situation can be diagrammed as combination AB<sub>sp</sub> ("sp" is an abbreviation for "specific"), and subcombination B<sub>sp</sub>. Thus the specific characteristics required by the subcombination claim B<sub>sp</sub> are also required by the combination claim. . . .

Id. (emphasis added). In this application, the combination claims 13-31 of Group II require the specific characteristics required by subcombination claim 6 of Group I.

Claim 6 of Group I is a subcombination claim drawn to a high-density circuit module and recites specific attributes of such a module. Thus, Claim 6 is a "B<sub>sp</sub>" subcombination claim within the framework of MPEP § 805.05(c) Part I. Claims 13 and 14, and claim 15 depending from claim 14, each recites "a *high-density circuit module devised in accordance with claim 6.*" Claim 16 and claims 17-20 depending from claim 16 each recites "plural high-density circuit modules, each of which plural *high-density circuit modules being devised in accordance with claim 6.*" Claim 21 and claims 22-26 depending from claim 21 each recites "a *high-density circuit module . . . devised in accordance with claim 6.*" Claim 27 and claims 28-31 depending from claim 27 each recites "*high-density circuit modules devised in accordance with claim 6.*" Each of claims 13-31 requires the specific characteristics of claim 6. Thus, each of claims 13-31 is a respective "AB<sub>sp</sub>" combination claim within the framework of MPEP § 805.05(c) Part I. "Thus the specific characteristics required by the subcombination claim B<sub>sp</sub> are also required by the combination claim," and "*a requirement for restriction must not be made or maintained, even if the subcombination has separate utility.*" MPEP § 805.05(c) Part I (emphasis added).

For the foregoing reasons, Applicants respectfully request that the Examiner withdraw the restriction requirement between Group I and Group II, and proceed to an examination of claims 1-31 and 43-46. Applicants accept the restriction requirement for Group III without traverse, but also without acquiescence in its propriety.

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Page : 17 of 17

Attorney's Docket No.: 21260-021001 / 254-094-PCT-2-C1

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**Conclusion**

The August 30, 2006, Office action contains a number of statements potentially reflecting characterizations of various claims, supporting descriptions, and/or other matters. Regardless of whether any such statements are addressed in this response, Applicants decline to automatically subscribe to any statement or characterization in the Office action. Applicants hereby expressly reserve the right to dispute such statements later.

The Commissioner is hereby authorized by this written request to treat this or any concurrent or future reply that requires a petition for an extension of time under 37 C.F.R. § 1.136(a) for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The Commissioner is further authorized to charge all required fees, including without limitation excess claim fees or other fees under 37 C.F.R. § 1.16 or any required extension of time fees or other fees under 37 C.F.R. § 1.17, to Deposit Account No. 06-1050, on which the undersigned is authorized to sign, and to treat such authorization to charge Deposit Account No. 06-1050 as a constructive petition for an extension of time in this or any concurrent or future reply requiring a petition for an extension of time under 37 C.F.R. § 1.136(a) for its timely submission. The Commissioner is further hereby authorized to credit any overpayment to Deposit Account No. 06-1050.

Respectfully submitted,

FISH &amp; RICHARDSON P.C.

Date: October 2, 2006

By: 

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